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**MAY 19 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Mark R. Frye et al :  
Application No. 10/658,793 : DECISION DISMISSING PETITION  
Filed: September 10, 2003 : UNDER 37 CFR 1.313(a)  
Attorney Docket No. 076041.0155 :  
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 11, 2006, which is being treated as a petition under 37 CFR 1.313(a) (prior to payment of the issue fee) requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on February 22, 2006, with the issue and publication fees being due on or before May 22, 2006. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note MPEP §§ 706.07(h)(IX) and 1308.*

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 3743 for appropriate processing of the RCE filed May 11, 2006, and for consideration of the concurrently filed Information Disclosure Statement.

*Frances Hicks*

Frances Hicks  
Petitions Examiner  
Office of Petitions